

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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**FISCAL IMPACT STATEMENT**

**LS 6372**

**BILL NUMBER:** HB 1040

**NOTE PREPARED:** Nov 26, 2007

**BILL AMENDED:**

**SUBJECT:** Hidden Compartments in Vehicles.

**FIRST AUTHOR:** Rep. Candelaria Reardon

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** X GENERAL  
X DEDICATED  
FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** This bill has the following provisions:

*Criminal Offense:* It prohibits a person from owning or operating a vehicle equipped with a hidden compartment.

*Enhanced Drug Penalties:* It increases the penalty for certain drug offenses if the drugs are transported in a vehicle equipped with a hidden compartment.

*Vehicle Seizure:* It permits the seizure of a vehicle equipped with a hidden compartment.

**Effective Date:** July 1, 2008.

**Explanation of State Expenditures:** *Enhanced Drug Penalties:* Several felony drug offenses receive enhanced penalties if the act is committed using a vehicle equipped with a hidden compartment, even if the drug was not in the compartment. A summary of the felony offenses included in the bill, the proposed penalty enhancements if the crime is committed using a vehicle with a hidden compartment, and the average annual commitments to state correctional facilities for the underlying offense are shown in the table below.

<b>Offense</b>	<b>Current Penalty for the Underlying Crime</b>	<b>Proposed Penalty (if committed using a vehicle with a hidden compartment)</b>	<b>Average Annual Commitments (2002 - 2006) for the Underlying Crime</b>
IC 35-48-4-1 Dealing in Cocaine or Narcotic Drug	Class B felony	Class A felony	1,023
IC 35-48-4-1.1 Dealing in Methamphetamine	Class B felony	Class A felony	0
IC 35-48-2 Dealing in a Schedule I, II, or III Controlled Subst.	Class B felony	Class A felony	210
IC 35-48-4-3 Dealing in a Schedule IV Controlled Substance	Class C felony	Class B felony	15
IC 35-48-4-4 Dealing in a Schedule V Controlled Substance	Class D felony	Class B felony	2
IC 35-48-4-6 Possession of Cocaine or Narcotic Drug	Class D felony	Class C felony	582
IC 35-48-4-6.1 Possession of Methamphetamine	Class D felony	Class C felony	0
IC 35-48-4-7 Possession of a Controlled Substance	Class D felony	Class C felony	212
IC 35-48-4-10 Dealing in Marijuana, Hash Oil, or Hashish	Class A misdemeanor	Class D felony	N/A

State expenditures would increase if an offender is incarcerated in a state prison or incarcerated in a state prison for a longer period of time.

- A Class A misdemeanor is punishable by a term of incarceration in a local jail.
- A Class D felony is punishable by a prison term ranging between 6 months to 3 years or reduction to Class A misdemeanor, depending upon mitigating and aggravating circumstances. The average length of stay in Department of Correction (DOC) facilities for all Class D offenders is about 10 months.
- A Class C felony is punishable by a prison term ranging from 2 to 8 years. The average length of stay in DOC facilities for all Class C felony offenders is approximately 2 years.
- A Class B felony is punishable by a prison term ranging from 6 to 20 years. The average length of stay in DOC facilities for all Class B felony offenders is approximately 3.7 years.
- A Class A felony is punishable by a prison term ranging from 20 to 50 years. The average length of stay in DOC facilities for all Class A felony offenders is approximately 9.1 years.

More offenders could mean increased costs to the DOC. The average expenditure to house an adult offender was \$19,185 and \$63,138 for a juvenile in FY 2007. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner.

*Vehicle Seizure:* The bill would add to the type of property that may be seized a vehicle that contains a hidden compartment. To the extent that the court would notify the Bureau of Motor Vehicles (BMV) and the BMV produces a clear title, costs for the BMV could increase minimally. The funds and resources required above could be supplied through a variety of sources, including the following: (1) existing staff and resources not currently being used to capacity; (2) existing staff and resources currently being used in another program; (3) authorized, but vacant, staff positions, including those positions that would need to be reclassified; (4) funds that, otherwise, would be reverted; or (5) new appropriations. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions.

**Explanation of State Revenues:** *Enhanced Drug Penalties:* For dealing in marijuana, hash oil, or hashish, more revenue to the Common School Fund could be collected if a larger criminal fine is assessed by the sentencing court. The maximum fine for a Class A misdemeanor is \$5,000, while the maximum fine for a Class D felony is \$10,000. Court fees for both misdemeanors and felonies are \$120.

*Criminal Offense:* There are no data to indicate how many offenders may be convicted of unlawful activity concerning a vehicle with a hidden compartment, a Class C misdemeanor. If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class C misdemeanor is \$500. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the judicial salaries fee (\$17), the public defense administration fee (\$3), the court administration fee (\$3), the judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into the state General Fund.

*Vehicle Seizure:* The proceeds from the sale of a seized vehicle are distributed first to the county sheriff to cover sale costs; then to any person holding a valid lien or having an interest in the property; and then to the Common School Fund as ordered by the court.

**Explanation of Local Expenditures:** *Enhanced Drug Penalties:* For dealing in marijuana, hash oil, or hashish, if an offender is sentenced to state prison rather than to a county jail, the costs to the county may be reduced. The maximum term of imprisonment for a Class A misdemeanor is up to one year. The average daily cost to incarcerate a prisoner in a county jail is roughly \$44.

*Criminal Offense:* A Class C misdemeanor is punishable by up to 60 days in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

*Vehicle Seizure:* The prosecuting attorney brings an action to seize a vehicle and may retain an attorney who is not a deputy prosecuting attorney.

**Explanation of Local Revenues:** *Enhanced Drug Penalties:* No additional revenues are expected since the court fees for both misdemeanors and felonies are \$120.

*Criminal Offense:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

*Vehicle Seizure:* A county sheriff may retain proceeds from the sale of a seized vehicle to offset costs associated with its sale.

**State Agencies Affected:** Department of Correction.

**Local Agencies Affected:** Trial courts, local law enforcement agencies.

**Information Sources:** Department of Correction; Todd Smith, Indiana State Police, 317-232-8998; Doug Gosser, Indiana Sheriffs' Association, 317-356-3633.

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